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Security Council

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29 June 2017
English
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Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan

Note verbale dated 19 June 2017 from the Permanent Mission of Spain to the United Nations addressed to the Chair of the Committee

The Permanent Mission of Spain to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan, and has the honour to transmit herewith the report submitted by Spain on implementation of Security Council resolution 2340 (2017) concerning the Sudan (see annex).

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Annex to the note verbale dated 19 June 2017 from the Permanent Mission of Spain to the United Nations addressed to the Chair of the Committee

Report of Spain on the implementation of Security Council resolution 2340 (2017)

Introduction

The Permanent Mission of Spain to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 1591 (2005) and, pursuant to paragraph 15 of Security Council resolution 2340 (2017), has the honour to present the required report regarding the specific action taken by Spain to implement effectively the provisions of Security Council resolutions 1556 (2004) and 1591 (2005).

Pursuant to paragraph 15 of Security Council resolution 2340 (2017), through which all States, particularly those in the region, are urged to report to the Committee on the actions they have taken to implement the measures imposed by Security Council resolutions 1556 (2004) and 1591 (2005), Spain, like the other States members of the European Union, has ensured the incorporation of Security Council sanctions resolutions into the European Union legal order through the corresponding European Union decisions and regulations.

(a) Decision 2014/450/CFSP of the Council of the European Union, of 10 July 2014, concerning restrictive measures in view of the situation in Sudan;

(b) Regulation (EU) 747/2014 of the Council of the European Union, of 10 July 2014, concerning restrictive measures in view of the situation in Sudan.

Legal framework

The relevant legal instruments that have been adopted are as follows:

(a) European Union Council Decision 2014/450/CFSP, of 10 July 2014, concerning restrictive measures in view of the situation in Sudan;

(b) European Union Council Regulation (EU) 747/2014, of 10 July 2014, concerning restrictive measures in view of the situation in Sudan.

Spain also has comprehensive national legislation in various areas that are closely related to some of the matters covered in Security Council resolution 2340 (2017) and therefore have an impact on the sanctions regime imposed on the Sudan.

Action taken to implement effectively the provisions of Security Council resolution 2340 (2017)

Action connected with the conventional arms embargo

The above-mentioned decisions and regulations are complemented, in this area, by Spanish legislation regulating foreign trade in defence-related and dual-use materials. Spain subjects such transactions to strict prior controls and, where the export of such materials is not prohibited, the requirement to obtain the relevant administrative licence from the competent national licensing authority.

Through the Interministerial Board for the Regulation of External Trade in Defence and Dual-Use Materials (JIMDDU) and the State Secretariat for Trade of the Ministry of Economy, Trade and Competitiveness, the Government of Spain makes a full analysis of every export transaction, taking account of the parameters

in articles 6 and 7 of the Arms Trade Treaty, the eight criteria in Council Common Position 2008/944CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment, and the criteria in the Organization for Security and Cooperation in Europe Document on Small Arms and Light Weapons. During the evaluation of applications, particular attention is paid to importing countries' compliance with Common Position criterion 1 (embargoes), criterion 2 (respect for human rights), criterion 3 (internal situation), criterion 4 (regional situation) and criterion 7 (risk of diversion), with authorization of transactions being denied if the criteria are not met.

The competent authorities in Spain comply very strictly with the restrictive measures associated with the United Nations and European Union embargoes. They consequently meet regularly with companies in the industry concerned to explain to them the legislation in force and the Spanish export-control system, with particular emphasis on current embargoes. Spanish companies are consequently aware of the restrictions on exports of arms and related materiel to countries covered by embargoes, and they therefore generally do not apply for licences in connection with those countries of destination.

The applicable national legislation in this field is contained in Act No. 53/2007 of 28 December 2007 on the control of foreign trade in defence-related and dual-use materials, in the Regulations on the control of foreign trade in defence-related material, other material and dual-use items and technology approved through Royal Decree No. 679/2014 of 1 August 2014, and in Order ECC/1493/2016, of 19 September 2016, updating the annexes to the aforementioned Regulations. Article 8 of the Act in certain circumstances allows applications for licences to be denied and licences granted to be suspended or revoked by an order issued by the head of the State Secretariat for Trade. Licences must in any case be revoked for failure to comply with the conditions attached to them and providing grounds for their issuance, or if the applicant has omitted or falsified information.

European Union Council Regulation (EC) No. 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items is also noteworthy. This regulation gives member States the power to prevent the brokering of any goods or materials that could be used in connection with a weapons-of-mass-destruction programme in the destination State, or of any dual-use material with possible military use in a State subject to an arms embargo.

The definition of the offences and penalties which apply in Spain to failure to implement the sanctions on the part of operators are established in Organic Act 12/1995, of 12 December 1995, on countering smuggling, amended by Organic Act 6/2011 of 30 June 2011. Exporting such goods without a licence is defined as smuggling if their value equals or exceeds €50,000, and that offence carries a prison term of one to five years and fines of up to six times the value of the exported goods.

No applications have been received under the above-mentioned legislation for exports related to the arms trade between Spain and the Sudan.

Entry bans and travel restrictions

The list of individuals subject to entry bans and travel restrictions has been incorporated into the above-mentioned instruments, which, together with Council Regulation (EC) 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders, form the basis for prohibiting entry into the territory of the European Union.

Spanish policy on foreign nationals is also governed by Organic Act 4/2000, of 11 January 2000, on the rights and freedoms of aliens in Spain and their social integration.

Financial measures and asset freezes

Spain has specific legislation on countering money-laundering and international terrorist financing, which complements the legal instruments adopted at the European Union level. Article 42 of Act 10/2010, of 28 April 2010, on preventing money-laundering and terrorist financing, explicitly mentions the freezing of funds in accordance with international sanctions.

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Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan

Note verbale dated 30 November 2017 from the Permanent Mission of Romania to the United Nations addressed to the Chair of the Committee

The Permanent Mission of Romania to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan and has the honour to inform the Committee that, since the adoption of the sanctions regime, Romania has implemented the provisions concerning the arms embargo, travel restrictions and asset freeze.

Moreover, there have been no cases that have called for the implementation of the sanctions regime, as no sale, supply or transfer of arms, military equipment or related assistance to the Sudan have been undertaken and the persons listed since the adoption of resolution 1672 (2006) have no assets in Romania and have not attempted to enter or transit the territory of Romania.

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Security Council

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29 December 2017

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Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan

Note verbale dated 29 December 2017 from the Permanent Mission of the Netherlands to the United Nations addressed to the Chair of the Committee

The Permanent Mission of the Kingdom of the Netherlands to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan and has the honour to refer to the letter dated 16 October 2017.

Upon the instruction of the Dutch Government, the Permanent Mission has the honour to submit to the Security Council Committee the requested report of the Government of the Kingdom of the Netherlands on the implementation of Security Council resolutions 1556 (2004) and 1591 (2005) (see annex).

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Annex to the note verbale dated 29 December 2017 from the Permanent Mission of the Netherlands to the United Nations addressed to the Chair of the Committee

Report of the Netherlands on the implementation of Security Council resolutions 1556 (2004) and 1591 (2005)

In accordance with Security Council resolution 1891 (2009), paragraph 5, the Kingdom of the Netherlands wishes to transmit to the Committee the following information concerning the implementation of the restrictive measures set forth in paragraphs 7 and 8 of resolution 1556 (2004) and paragraphs 3 and 7 of resolution 1591 (2005).

The implementation of United Nations sanctions is an autonomous competence of Aruba, Curaçao, Sint Maarten and the Netherlands, although the Kingdom of the Netherlands remains accountable under international law. Only the Netherlands is a member of the European Union.

Member states of the European Union implement the provisions of the Security Council resolutions that fall within the scope of the European Union's competence through the relevant European regulatory acts, comprising regulations, decisions and common positions of the Council of the European Union. The Netherlands and the other member states of the European Union have jointly implemented the following restrictive measures against the Sudan imposed by the Security Council in its resolutions 1556 (2004) and 1591 (2005):

- Council Decision 2014/450/CFSP of 10 July 2014 concerning restrictive measures in view of the situation in the Sudan and repealing Council Decision 2011/423/CFSP, last amended by Council Implementing Decision (CFSP) 2017/413
- Council Regulation (EU) 747/2014 of 10 July 2014 concerning restrictive measures in view of the situation in the Sudan and repealing Regulations (EC) 131/2004 and (EC) 1184/2005, last amended by Council Implementing Regulation (EU) 2017/401

The Council Decision sets out the European Union's commitment to implementing all the measures contained in Security Council resolutions 1556 (2004) and 1591 (2005), and provides the basis for European Union-specific accompanying measures within the scope of the resolutions, notably:

- Prohibition of the sale, supply, transfer or export of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment and spare parts for the aforementioned to the Sudan by nationals of member states or from the territories of member states, or using their flag vessels or aircraft, whether originating or not in their territories (arms embargo).
- Prohibition on providing technical or financial assistance or brokering services related to military activities and to the provision, manufacture, maintenance and use of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment and spare parts for the aforementioned, directly or indirectly, to any natural or legal person, entity or body in, or for use in the Sudan (prohibition on providing technical or financial assistance in relation to military activities).
- Prohibition on making available, directly or indirectly, funds or economic resources to or for the benefit of the natural or legal persons, entities or bodies

listed in annex I to Council Regulation 747/2014, last amended by Council Implementing Regulation 2017/1942 (prohibition on providing financial assistance to listed persons).

- Obligation of member States to freeze all funds and economic resources belonging to, owned or controlled, directly or indirectly, by the natural or legal persons, entities or bodies listed in annex I to Council Regulation 747/2014, last amended by Council Implementing Regulation 2017/401 (asset freeze).
- Obligation of member States of the European Union to prevent the entry into, or transit through, the territory of the persons listed in the annex to Council Decision 2014/450/CFSP, last amended by Council Implementing Decision 2017/1948 (entry ban).
- Obligation of member States of the European Union to supply immediately any such information that would facilitate compliance with Council Regulation 747/2014.

The above-mentioned regulations of the Council of the European Union are binding in their entirety and directly applicable in all member states of the European Union. As soon as the European Union regulations were adopted, the Minister for Foreign Affairs of the Netherlands, in cooperation with the other ministers concerned, laid down the necessary national provisions in secondary legislation, within the framework of the Sanctions Act 1977. In that act, it is stated that the Minister of Finance may designate one or more legal entities to monitor compliance with sanctions legislation (the Sanctions Act 1977 and secondary legislation) in relation to financial transactions. Through the Legal Entities Designation Order pursuant to the Sanctions Act 1977, the Minister of Finance designated the Dutch central bank and the Dutch Authority for the Financial Markets as supervisors of compliance with sanctions legislation according to specific categories of financial institutions. The Dutch central bank is responsible in this context for the supervision of credit institutions, trust offices, payment institutions, pension funds and insurers. The Dutch Authority for the Financial Markets supervises the following financial institutions: managers of undertakings for collective investment in transferable securities, managers of alternative investment funds as referred to in sections 2:65 and 2:66 (a) of the Financial Supervision Act and investment firms.

The Supervision Order pursuant to the Sanctions Act 1977, prepared jointly by the Dutch Authority for the Financial Markets and the Dutch central bank, provides financial institutions with a framework for taking measures. There are two types of financial sanctions: an order to freeze assets and a ban or restrictions on providing financial services. These sanctions are intended to prevent undesirable transactions (embargoes) and to combat terrorism. Institutions take measures to ensure that they can identify clients and associates that are legal or natural persons or entities referred to in sanctions legislation. Institutions subsequently ensure that they do not provide financial resources or services to these clients and associates, and that they are able to freeze their financial assets. The Dutch Authority for the Financial Markets and the Dutch central bank operate with a sanctions alert system that publicizes new sanctions measures of relevance to financial businesses. The Dutch Authority for the Financial Markets and the Dutch central bank found no obstacles to implementing the Sudan sanctions regime and determined that, within the institutions under their oversight, there are currently no asset freezes in force with respect to the Sudan sanctions regime.

Financial institutions are required to have proper internal controls so that they can meet their obligations under sanctions legislation. They also have an obligation to notify supervisory bodies of any frozen funds or frozen financial assistance. Failure to meet those obligations can result in a penalty under national administrative law.

Council regulation (EU) 747/2014 requires member states to determine the penalties applicable to any infringements of their provisions. The penalties determined by the Netherlands are set out in the Economic Offences Act.

Pending the adoption of the European Union regulations and, subsequently, national secondary legislation, the Netherlands implemented its obligations under the Security Council resolutions through its existing national legislation and instruments, such as the Tax and Customs Administration, the Dutch central bank, the Dutch Authority for the Financial Markets, the Consular Affairs and Visa Policy Department of the Ministry of Foreign Affairs, the Public Prosecution Service and the Fiscal Information and Investigation Service.

The Netherlands has the following national legislation implementing the restrictive measures in view of the situation in the Sudan: the Sudan Sanctions Order 2014, specifically articles 1 and 3.

The Netherlands has the following national legislation in force requiring an export authorization for the sale, supply, transfer or export of arms and related materiel to third countries and an authorization for the provision of brokering services and other services related to military activities: the General Customs Act, the Strategic Goods Decree and the Strategic Services Act.

The individuals listed in Council Decision 2014/450/CFSP have been registered in the Schengen Information System, which ensures that any Schengen visa application will be denied.